

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee,
Hon. Don Edward Green, Chair
Douglas C. Miller, Committee Counsel, 415-865-7535,
douglas.miller@jud.ca.gov

DATE: March 8, 2005

SUBJECT: Probate Guardianships and Conservatorships: Notices From Financial
Institutions to Courts of New or Changed Accounts or Safe-Deposit
Boxes Reflecting Ownership Interests in Guardians or Conservators
(revise form GC-051) (Action Required)

Issue Statement

The *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe Deposit Box* (form GC-051) was adopted effective July, 2002, in response to legislation that added sections 2892 and 2893 to the Probate Code.¹ These sections require financial institutions to file affidavits with appointing courts about new or existing accounts or safe-deposit boxes in the institutions that reflect ownership interests in guardians or conservators.

The Legislature amended section 2892 in 2003, effective January 1, 2004.² The amendment modified the duties imposed on financial institutions to disclose the contents of safe-deposit boxes. Form GC-051 must be revised to conform to the new statutory requirements.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe Deposit Box* (form GC-051) effective July 1, 2005, to comply with

¹ Stats. 2001, ch. 563 (Assem. Bill 1286), § 7.

² Stats. 2003, ch. 888 (Assem. Bill 394), § 7.

the new requirements of Probate Code section 2892. Other improvements in the form are also recommended at this time to make it easier to complete, read, and use.

Copies of the following are attached:

1. Proposed revised *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) at page 6;
2. Existing form GC-051 at page 7; and
3. Probate Code section 2892 at page 8.

Rationale for Recommendation

The 2003 amendment of Probate Code section 2892 modified financial institutions' obligation to disclose information to appointing courts about safe-deposit boxes in two respects. First, reporting institutions are required to disclose the contents of only those safe-deposit boxes to which they have been granted access. Second, reporting institutions are required to disclose the contents of safe-deposit boxes only in general terms.³

Revisions made necessary by statute

The changes required by the amendment of section 2892 are contained in item 5d (item 1e of the existing form) and new item 5e of revised form GC-051. Item 5d requests the institution to state whether it has or has not been given access to the safe-deposit box identified in items 5a–c.⁴ An instruction following this item would advise the financial institution to complete item 5e if the institution has been given access to the safe-deposit box. Item 5e requests the institution to list the types of assets contained in the safe-deposit box in general terms. The list given in the instructions is an example taken from the amended statute.

Other revisions

The following revisions to the form are also proposed:

³ Probate Code section 2892(a)(5), as amended. This paragraph originally read: "If the asset is held in a safe deposit box, a description of the asset, including any title, or policy number, or reference number."

As amended, section 2892(a)(5) now provides: "If the asset is held in a safe-deposit box, *and the financial institution has been given access to the safe-deposit box*, a list of the contents, *including, for example, currency, coins, jewelry, tableware, insurance policies or certificates, stock certificates, bonds, deeds, and wills.*" (Italics added.)

⁴ The amended statute eliminates only the duty to disclose the contents of some safe-deposit boxes. The institution's duty to disclose other information requested in the form about all safe-deposit boxes has not been changed.

1. The caption box at the top of the form would be expanded, more space provided for the financial institution's address, and the name and job title of the declarant placed above the name of the institution. The person to be identified would be changed to "declarant" from "contact person." This change would free up the space at the bottom of the form where the declarant's telephone number and job title now appear.
2. Items 3 and 2 of the existing form, the declarant's statement that he or she is an officer of the institution authorized to sign the form and a statement that the fiduciary presented Letters of Guardianship or Conservatorship to the institution for identification purposes, would be moved from the bottom of the form to a more logical position at the top, to become, respectively, items 1 and 2.
3. The requests for information about accounts and safe-deposit boxes in items 1a through 1e of the existing form would be broken out into renumbered items 3 through 6 for greater clarity, ease of use, and space on the page.
4. The request for information concerning safe-deposit boxes in item 5 (items 1d and 1e of the existing form) would be rewritten to parallel the information requested about accounts in item 4.
5. Check boxes would be added to items 4 and 5 (items 1b through 1e of the existing form), to cover the situation where the institution has an affected account but no safe-deposit box, or a box but no account.
6. The instruction for item 4 (existing item 1b) would be revised and a new instruction to item 5 (existing items 1d and 1e) added to clarify that the form requests information about one account, new or existing, and one safe-deposit box, new or existing. These instructions would request responding institutions to report additional accounts or safe-deposit boxes on Attachments 4 or 5.
7. The cash balance of an identified account would be placed within a text box to give it greater emphasis.
8. The term "safe-deposit" would be hyphenated wherever it appears, including in the title of the form, because this change has also been made in the statute.
9. The numbering of subparagraphs under items 4 a and b (items 1b(1) and (2) in the existing form) would be changed to conform to current form numbering conventions.

Alternative Actions Considered

Because of the changes in the disclosure requirements imposed by statute, no alternatives to a revision of the form were considered.

Comments From Interested Parties

This proposal was circulated to a standard list of court executives, judicial officers, and organizations, and to an augmented list of probate practitioners, court staff, and related organizations. The California Bankers Association was also specifically requested to comment, on behalf of financial institutions subject to the statute and the form.

Attached at pages 9–12 is a chart showing the comments received and the advisory committee’s responses. All nine comments received were favorable.

Two commentators requested modifications to the form. Ms. Sandra Riley, the supervising probate attorney of the Superior Court of Los Angeles County, recommends that the form be changed by deleting proposed instructions that would advise financial institutions to file additional forms for additional accounts or safe-deposit boxes because Probate Code section 2893(d) permits financial institutions to list all assets in a single affidavit. The advisory committee agrees with this comment. It has modified the instructions to items 4 and 5 of the revised form to instruct financial institutions to disclose information about additional accounts or safe-deposit boxes in attachments to a single form.

Ms. Riley also recommends that the form be revised to provide a warning covering situations in which the information disclosed in the form is confidential. (See Probate Code section 2893(e).) The advisory committee disagrees with this recommendation for two reasons.

First, section 2893(e) provides for confidentiality of information disclosed in the form only to the extent that the information would not be disclosed in an accounting, inventory and appraisal, or other nonconfidential pleading filed in the guardianship or conservatorship.⁵ The advisory committee believes that the information requested in the form—account or safe-deposit identifying numbers, account balances or general descriptions of assets in safe-deposit boxes, and the manner of holding title to the accounts or boxes—would ordinarily be disclosed in nonconfidential court filings.

Second, the form is a declaration from a reporting financial institution to the court. Therefore, the warning requested by Ms. Riley would be from the institution to the court. The statute does not impose this duty on financial institutions. Moreover, judicial officers, legal staff, or other experienced employees of the court’s probate department should be more knowledgeable than employees of a reporting financial institution whether particular information is usually disclosed in guardianship or conservatorship pleadings and thus whether it is confidential.

⁵ The example given in the statute is the ward’s or conservatee’s social security number.

Ms. Maurine Padden, on behalf of the California Bankers Association, requests additional clarification that a responding institution must provide information about the contents of a safe-deposit box only if the institution has been granted access to the box. The advisory committee disagrees with this recommendation because the committee believes that items 5d and 5e of the revised form are sufficiently clear on this point.

Implementation Requirements and Costs

There should be no unusual costs beyond the cost of developing and distributing any revised Judicial Council form.

Attachments

DECLARANT (Name): _____ TITLE: _____ INSTITUTION (Name): _____ ADDRESS: _____ TELEPHONE: _____ FAX (Optional): _____	FOR COURT USE ONLY Draft 5 03/21/05 Not Approved by the Judicial Council NO FILING FEE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	CASE NUMBER: _____
<input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (Name): _____ <input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE	
NOTICE OF OPENING OR CHANGING A GUARDIANSHIP OR CONSERVATORSHIP ACCOUNT OR SAFE-DEPOSIT BOX	
NOTE TO FINANCIAL INSTITUTION: When a guardian or conservator of the estate of a person opens or changes the name on an account or a safe-deposit box in a "financial institution" (a bank, a trust, a savings and loan association, a savings bank, an industrial bank, or a credit union), the institution must file a statement with the court having jurisdiction over the proceeding and identified in the <i>Letters of Guardianship</i> or <i>Letters of Conservatorship</i> . The statement must contain the information specified below concerning each new or existing account or safe-deposit box in the institution. The statement must be signed by an authorized officer of the institution.	

1. I am an officer of the financial institution identified in this statement, and I am authorized to sign this statement on its behalf.
2. The guardian or conservator presented *Letters of Guardianship* or *Letters of Conservatorship* identifying the guardian or conservator of the estate of the ward or conservatee named above.
3.
 - a. Financial institution (name): _____
 - b. Branch (name): _____
 (street address): _____
 (city and zip code): _____ (telephone): _____
4. ☐ Account status (check one; identify additional new or existing accounts on Attachment 4):
 - a. ☐ (1) New account opened on (date): _____ reflecting the guardianship or conservatorship.
 (2) Account number: _____
 - b. ☐ (1) Existing account changed on (date): _____ to reflect the guardianship or conservatorship.
 (2) Account number: Before change: _____ After change: _____
 (3) Name on account before change (state each name): _____
 - c. Opening balance of new account or balance of existing account immediately after change: \$
5. ☐ Safe-deposit box status (check one. Identify additional safe-deposit boxes on Attachment 5):
 - a. ☐ New box rented on (date): _____ reflecting the guardianship or conservatorship.
 - b. ☐ Existing box rental changed to reflect the guardianship or conservatorship on (date): _____
 - c. New safe-deposit box number or current number after change: _____
 - d. This institution ☐ has ☐ has not been given access to the safe-deposit box identified above.
 (If you checked "has," complete item 5e.)
 - e. ☐ The contents of the safe-deposit box identified above are as follows (list the contents in general terms, such as "currency, coins, jewelry, tableware, insurance policies or certificates, stock certificates, bonds, deeds, and wills"):
6. Name of each person who opened or whose name was added to above-identified account or safe-deposit box (state each name):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF AUTHORIZED OFFICER)

(SIGNATURE OF AUTHORIZED OFFICER)

NAME OF INSTITUTION: ADDRESS: CONTACT PERSON: TITLE: _____ TELEPHONE NO: _____	NO FILING FEE	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
<input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (Name): <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div>		
NOTICE OF OPENING OR CHANGING A GUARDIANSHIP OR CONSERVATORSHIP ACCOUNT OR SAFE DEPOSIT BOX		CASE NUMBER:
<p style="text-align: center;">NOTE TO FINANCIAL INSTITUTION</p> <p>When a guardian or conservator of the estate of a person opens or changes the name on an account or a safe deposit box in a "financial institution" (a bank, a trust, a savings and loan association, a savings bank, an industrial bank, or a credit union), Probate Code section 2892 requires the financial institution to file a statement with the court having jurisdiction over the guardianship or conservatorship and identified in the Letters of Guardianship or Letters of Conservatorship. The statement must contain the information specified below concerning the account or safe deposit box. The statement must be on this form and must be signed by an authorized officer of the financial institution.</p>		

1. Account or safe deposit box information

- a. Financial institution (*name*):
- (1) Branch:
- (2) Branch address:
- (3) Branch telephone no.:
- b. Account status (*check one*):
- (1) ☐ New account opened on (*date*): _____ reflecting the guardianship or conservatorship.
- (i) Account number:
- (ii) Opening balance:
- (2) ☐ Existing account changed on (*date*): _____ to reflect the guardianship or conservatorship.
- (i) Name on account prior to change (*state each name*):
- (ii) Account number: Prior to change: _____ After change: _____
- (iii) Balance of account immediately after change: \$ _____
- c. Name of person who opened new account or rented safe deposit box, or whose name was added to existing account or safe deposit box (*state each name*):
- d. New safe deposit box number, or current number after change:
- e. Describe each asset held in a safe deposit box, including any policy or other identification number:

2. The guardian or conservator presented Letters of Guardianship or Letters of Conservatorship that identify the guardian or conservator as guardian or conservator of the estate of the ward or conservatee.

3. I am an officer of the financial institution identified in this statement, and I am authorized to sign this statement on its behalf.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(AUTHORIZED SIGNATURE)

Title:

Telephone no.:

Probate Code section 2892.

2892.

- (a) When a guardian or conservator, pursuant to letters of guardianship or conservatorship of the estate, opens or changes the name to an account or safe-deposit box in a financial institution, as defined in subdivision (b), the financial institution shall send to the court identified in the letters of guardianship or conservatorship a statement containing the following information:
 - (1) The name of the person with whom the account or safe-deposit box is opened or changed.
 - (2) The account number or reference number.
 - (3) The date the account or safe-deposit box was opened or changed ownership pursuant to letters of guardianship or conservatorship.
 - (4) If the asset is held in an account in a financial institution, the balance as of the date the account was opened or changed.
 - (5) If the asset is held in a safe-deposit box, and the financial institution has been given access to the safe-deposit box, a list of the contents, including, for example, currency, coins, jewelry, tableware, insurance policies or certificates, stock certificates, bonds, deeds, and wills.
 - (6) The name and address of the financial institution in which the asset is maintained.
- (b) For purposes of this chapter, "financial institution" means a bank, trust, savings and loan association, savings bank, industrial bank, or credit union.

Comments for Proposal W05-10

Probate Guardianships and Conservatorships: Notices From Financial Institutions to Courts of New or Changed Accounts or Safe-Deposit Boxes Reflecting Ownership Interests in Guardians or Conservators(revise form GC-051)

	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
1.	Ms. Grace Andres Program Manager Superior Court of Solano County 600 Union Avenue Fairfield, CA 94533	A	N	Agree with proposed changes.	No response necessary
2.	Mr. Brad Lovelace Partner Wingert Grebing Brubaker & Goodwin LLP 600 W. Broadway, Seventh Floor San Diego, CA 92101	A	N	Agree with proposed changes.	No response necessary
3.	Ms. Sharon Ngim Staff Liaison to the Standing Committee on the Delivery of Legal Services The State Bar of California 180 Howard Street San Francisco, CA 94105	A	Y	Agree with proposed changes. We support the proposed revision of form GC-51.	No response necessary.
4.	Ms. Maurine Padden Attorney California Bankers Association 1121 "L" Street #1050 Sacramento, CA 95814	AM	Y	Agree with proposed changes only if modified. So far I have received one comment from a member of the Association requesting that the form clarify item 5(e) that the institution is to list the contents of the safe deposit box, "If the financial institution has been given access to the safe deposit box." This	Item 5d of the form requests the financial institution to state, by checking one of two checkboxes, that the institution <i>has</i> or <i>has not</i> been given access to the safe-deposit box. (Italics added.) The instructions

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	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
				amendment clarifies any ambiguity for the financial institutions as to when their duty is triggered. It is consistent with the provisions of the duty outlined in Section 2892(a)(5). If the financial institution doesn't have access to the safe deposit box, they don't have duty to list its contents. Without this clarification, many institutions will be confused by the form and contact the courts to determine how to comply which is unnecessary and counter-productive.	immediately following item 5d request the declarant to complete item 5e, calling for a description of the contents of the box, only if he or she has checked <i>has</i> in response to item 5d, indicating clearly that a response concerning the contents of the safe-deposit box is required only if the institution has in fact been given access to the safe-deposit box. The advisory committee believes the revised form is sufficiently clear on this point.
5.	Ms. Linda Paquette Law Office of Linda Paquette 847 S. Grand Avenue Pasadena, CA 91105	A	N	Agree with proposed changes.	No response necessary.
6.	Ms. Tina Rasnow Senior Attorney/Coordinator Superior Court of Ventura County 800 S. Victoria Ave Ventura, CA 93009	A	N	Agree with proposed changes.	No response necessary.

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	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
7.	<p>Ms. Sandra Riley Supervising Probate Attorney Superior Court of Los Angeles County</p> <p>111 North Hill Street Los Angeles, CA 90012</p>	AM	N	<p>Agree with proposed changes only if modified.</p> <p>The proposed form directs, at paragraph 4, “(File an additional form for each additional account)”, however Probate Code section 2893(d) provides “all assets held by the financial institution may be listed in a single affidavit filed with the court.”</p> <p>Also, there should be a warning when the affidavit contains confidential information as described in Probate Code section 2893(e). Perhaps, a box could be added in the caption area of the form for confidential filings.</p>	<p>The advisory committee believes that this recommendation is well-taken. The form has been revised to require attachments to one form rather than additional forms for identification of additional accounts or safe-deposit boxes.</p> <p>The advisory committee disagrees with this recommendation. The form is not designated as a confidential form because section 2893(e) provides for confidentiality of financial information <i>that would not be disclosed in an accounting, an inventory and appraisal, or another nonconfidential pleading filed in the action—the guardianship or conservatorship</i>. The form’s requested information about balances and contents of the ward’s or conservatee’s bank accounts or safe-deposit boxes would generally be disclosed in an accounting and an Inventory and Appraisal. Account numbers of accounts maintained during the guardianship or conservatorship are also often disclosed in an accounting, and account numbers of accounts existing at the commencement of the proceeding are disclosed in an Inventory and Appraisal.</p>

Comments for Proposal W05-10

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	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
					Section 2893 contemplated an affidavit prepared and filed by the financial institution that might contain confidential information like a social security number, not a Judicial Council form that does not request such information.
8.	Mr. Kevin Samsel Senior Probation Officer, Court Investigator Humboldt County Probation Dept. 333 "J" Street Eureka, CA 95519	A	N	Agree with proposed changes.	No response necessary.
9.	Mr. Dean J. Zipser President Orange County Bar Association P.O. Box 17777 Irvine, CA 92623	A	Y	Agree with proposed changes.	No response necessary.